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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,449	01/27/2004	Noriaki Ojima	248079US2	8705
22850	7590	11/28/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			MISLEH, JUSTIN P	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/764,449

Applicant(s)

OJIMA ET AL.

Examiner

Justin P. Misleh

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as “means”, “comprises”, and “said” should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, “The disclosure concerns,” “The disclosure defined by this invention,” “The disclosure describes,” etc.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. **Claims 1 – 5** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. For **Claims 1 and 4**, the claim recites therein, “if a shutter speed for recording a subject is more than a predetermined time”. The recitation requires comparing two different and incomparable units of measure (e.g. “speed” and “time”). Without additional explanation as how such a comparison is carried out the claim fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For the purposes of examination, the recitation will be omitted from the remainder of the claim language.

6. **Claims 2 and 3** recite the limitation “said predetermined time” wherein in independent Claim 1, which is the parent claim, the following is recited: “hastening by a predetermined time” and “more than a predetermined time”. The limitation “said predetermined time” should refer to one or the other of “predetermined time” introduced in the parent claim. For the purposes of examination, the examiner will interpret “said predetermined time” as corresponding to the “hastening by a predetermined time”.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. **Claims 1 – 5** are rejected under 35 U.S.C. 102(b) as being anticipated by Sasaki (US 6 243 136 B1). Please see examiner's interpretation of the claim language above.

9. For **Claim 1**, Sasaki discloses, as shown in figures 1, 7, and 10 and as stated in column 9 (line 45) – 10 (line 37), an imaging apparatus (see figure 1) comprising:

a charge discharging device (signal generator 5 – see column 8, lines 37 – 45) for discharging charge accumulated in an imaging device (2) and for canceling exposure in a term for discharging the charge (electronic shutter);

a light shielding device for shielding light by a mechanical shutter (shutter 22); and  
a control device (signal generator 5) for hastening by a predetermined time (delta T) said discharging term for discharging the charge and a shielding timing of said mechanical shutter (see column 9, line 45- column 10, line 37).

10. As for **Claim 2**, Sasaki discloses, as shown in figure 10, wherein said predetermined time (delta T) corresponds to about half time of a term of a vertical synchronous signal representing an image recording term of one frame (The resulting exposure time, after the hastening by delta T, corresponds to an exposure time about half the VD term).

11. As for **Claim 3**, Sasaki discloses, as shown in figure 7, wherein said predetermined time (delta T) corresponds to a term of discharging the charge, computed based on a predetermined shutter speed (Step S21 indicates a predetermined shutter speed and Step S23 corresponds to a computed delta T corresponding to the predetermined shutter speed).

12. For **Claim 4**, Sasaki discloses, as shown in figures 1, 7, and 10 and as stated in column 9 (line 45) – 10 (line 37), an imaging method (see figure 7) for controlling an amount of exposure, comprising:

a step for discharging charge accumulated in an imaging device (2) and for canceling exposure in a term for discharging the charge (see figure 10 especially the photodiode-control signal via electronic shutter);

a step for shielding light by a mechanical shutter (see figure 10 especially the mechanical shutter signal via mechanical shutter); and

a step for hastening said discharging term for discharging the charge and a light shielding timing of said mechanical shutter by the term of discharging the charge ( $\Delta T$ ), computed based on a predetermined shutter speed (The resulting exposure time, after the hastening by  $\Delta T$ , corresponds to an exposure time about half the VD term. Furthermore, Step S21 in figure 7 indicates a predetermined shutter speed and Step S23 corresponds to a computed  $\Delta T$  corresponding to the predetermined shutter speed).

13. As for **Claim 5**, Sasaki discloses, as shown in figure 1 and as stated in column 7 (lines 10 – 17), a recording medium (ROM) for recording a program of said imaging method (see figure 7), said program being readable by a computer (controller 30).

#### *Cited Prior Art*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because each discloses adjusting an exposure period for real image capture based upon an image captured in a photometric mode wherein the real image capture and photometric image capture are carried using a combination of an electronic shutter and a mechanical shutter.

*Conclusion*

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ngoc Yen Vu can be reached on 571.272.7320. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM  
November 23, 2005



NGOC-YEN VU  
PRIMARY EXAMINER